

**McDowell Sonoran Preserve Commission  
3<sup>rd</sup> Floor Large Conference Room  
7447 E. Indian School Road, Scottsdale, Arizona  
Thursday, January 8, 2004**

**CALL TO ORDER**

Vice-Chair Kovach called the meeting to order at 5:08p.m., noting the presence of a quorum.

**ATTENDANCE**

Present: Christine Kovach, Vice-Chair  
Laura Fisher  
Don Ruff  
Carla  
Howard Myers  
Arnold Roy  
Solange Whitehead  
Erik Filsinger  
Virginia Korte

Absent: Art DeCabooter, Chairman  
Denny Carr

Staff: Bob Cafarella  
Claire Miller

Visitors: Tim Bray

**APPROVAL OF MINUTES**

ON MOTION MADE BY COMMISSIONER RUFF AND SECOND BY COMMISSIONER FISHER, THE DECEMBER 4, 2003 MINUTES WERE APPROVED. THE MOTION PASSED UNANIMOUSLY.

**SCENIC CORRIDORS**

Commissioner Myers reported that the Planning Commission was reviewing the possibility of adding more roads to the Scenic Corridor program. The Planning Commission is looking for additional support/recommendation for this possible action from the McDowell Sonoran Preserve Commission.

Current considerations included the following roads: Jomax, through the two sections of planned Preserve, from Scottsdale Road to Pima Road; Lone Mountain Road, looking into the Preserve, from Scottsdale Road to Pima Road; Both segments are two miles long. Lone Mountain is already set up similar to a recognized scenic corridor, with large setbacks.

Commissioner Carla asked which roads are currently considered scenic corridors? (Pima Road, Scottsdale Road and Dynamite Boulevard are in the Scenic Corridor program at this time). Commissioner Carla also asked what the scenic corridor designation meant, and whether the designated corridor can be split or specified to a certain side of the street or road. Commissioner Myers replied that the Scenic Corridors have very specific guidelines that must be followed, and that the corridors are

protected from certain types of development. Commissioner Carla then asked if the east side of the segment of Thompson Peak Parkway in the future Gateway area be designated and added to the list of roads already mentioned?

Commissioner Roy asked if there had been any opposition to adding scenic corridor designations on behalf of the Planning Commission? Commissioner Myers stated that there was not any opposition, but the Planning Commission would like to have support before proceeding.

Commissioner Fisher asked what the specific request from the Planning Commission was. Commissioner Myers replied that they were looking for a support letter from the McDowell Sonoran Preserve Commission with a copy to the City Council, outlining additional roads to be added to the Scenic Corridor program. Exact phrasing of the support letter was discussed, so as not to “tie the hands” of the Planning Commission by asking for specific roads to be added to the Scenic Corridor Program.

Commissioner Carla asked if Dixileta (west of Pima) was precluded from designation, and if the Commission should recommend roads directly adjacent/bordering the Preserve? Mr. Cafarella stated that a legitimate case could be made either way.

MOTION WAS MADE BY COMMISSIONER MYERS TO HAVE THE MCDOWELL SONORAN PRESERVE COMMISSION SEND A LETTER TO THE PLANNING COMMISSION REQUESTING THAT THE FOLLOWING ROADS BE CONSIDERED FOR DESIGNATION OF SCENIC CORRIDORS: JOMAX, DIXILETA AND LONE MOUNTAIN ROADS, FROM SCOTTSDALE ROAD EAST TO THE CITY BORDER/136<sup>TH</sup> STREET, AND THOMPSON PEAK PARKWAY. THE MOTION WAS SECONDED BY COMMISSIONER RUFF AND PASSED UNANIMOUSLY.

#### **UPDATE: STATE LANDS WORKING GROUP**

Commissioner Carla, a member of the working group, passed out the latest Tribune article written by Ed Fox of Pinnacle West, who volunteered to chair this diverse group. She referenced the “Terms” sheet that was passed out at the last Commission meeting, and noted that the back page of the current article spells out the terms, with “something for everyone.”

She noted that the State Land Department would like to have additional funding to help manage the State Trust Land – currently they do not have enough funding/budget to function well; the ultimate goal would be for the ASLD to be self-funding.

Carla also reported that a Planning Component is part of the current proposal (similar to what Scottsdale already has/does), with the ability to recognize contributory value, and the ability to dedicate land for conservation/preservation purposes (not always through density transfers).

Carla reported that the proposal is great for communities that will never have the ability to buy lands for conservation/open space, giving them a tool to get permanently dedicated open space, as they may not have any other options for which to do so.

Carla reported that the possible problems that may be encountered with the proposal may come from the rural communities and the Arizona Cattleman’s Association, who have a great deal of control in the State Legislature. Ranchers are trying to get around recent court rulings affecting ASLD grazing leases, where they must show certain levels of stewardship to the lease areas. Ranchers are generally provided with a first right of refusal when it grazing leases are up for renewal.

The section of the proposal that may effect us is the criteria applied (similar to API), referred to as “development suitable” versus “conservation suitable.” On the ballot, there will be “Incentive” and “Option” lands identified. Incentive lands would indicate that the areas are part of a larger planned open space area, with the possibility of a land transfer at zero cost, as compensation must be provided for adjacent acres – NOT to be referred to as *free* (especially in respect to the education community or other beneficiaries)! Carla then spent some time discussing the Scottsdale map areas as they relate to the proposal.

Carla also reported that the group is still working on timing issues, and they have several items that still need to be fleshed out. She further noted that the API (Arizona Preserve Initiative) is currently being challenged in terms of deed restriction issues. This will be closely monitored.

Carla stated that the current proposal is in “drafting” at this point, and when all stakeholders agree, the text will be put into appropriate legislative legal wording, then to the legislature. Stakeholders *must agree* to any proposed changed by the legislature. There is a possibility of an upcoming Special Session, with November 2004 being the possible ballot date for voting. If the measure passes, then the congressional changes will need to be made. It should also be noted that under this reform, the Arizona Preserve Initiative would be eliminated.

Commissioner Kovach asked if there were any estimates of the value of the identified land areas, especially in respect to Scottsdale, as this information may dictate what we should attempt to purchase first.

Commissioner Korte asked if the current proposal is any better than the old Proposition 100 that was defeated in the previous vote, and if we have gained anything? Commissioner Carla responded that we wouldn’t really gain anything with the “up front” or incentive lands, but we would have some benefits with the option lands and planning issues. She further stated that more ecological lands are being considered compared to the previous Proposition 100. The current proposal also includes more Pima County land.

Commissioner Myers asked if there is any cap identified for the amount of land preserved? Commissioner Carla responded that new incentive lands couldn’t be created for 25 years. Commissioner Myers also asked about the timing issues involved in purchasing the land. If this passes, a “new clock” will start from the enabling act change. For the areas already planned, Mark Winkleman would want entities to start buying the lands as soon as possible.

Tim Bray, citizen, asked who would be the arbitrator on the option lands in regard to their established value? Commissioner Carla responded that it was similar to baseball arbitration; the values will be based on appraisals with an appeal process in place.

Commissioner Carla further noted that all of this is still in DRAFT, and suggested that it may be placed on next months meeting agenda, with the hope of being able to review specific text.

## **DIRECTOR’S REPORT**

Mr. Cafarella reported that the Hidden Hills plans (provided at last month’s meeting) are on the Development Review Board agenda for 02/05/04, and he will advise the commission of the DRB action. He noted that the process was going well, and that the plans and actual construction drawings will be prepared following the DRB approval.

Mr. Cafarella also reported that on 01/06/04, the City Council unanimously voted to condemn the Toll Brothers interest of 383 acres in the planned Gateway area. Every effort was made to resolve the issue

prior to the condemnation, and hopefully the process will go well from here out. The city could possibly take possession of the parcel in mid-late April, if all goes well.

Commissioner Kovach asked how the State Land Department has reacted to the condemnation action. Mr. Cafarella stated that there was no problem, and that all involved parties have a strong desire to work with Toll Brothers to work out the process, with the goal of resolving the issue in a consensual manner.

Mr. Cafarella reported that there would be a Special City Council meeting on 01/14/04, at 6:00pm, to discuss funding issues for a May public ballot. A variety of items may be included for preservation and/or public safety, with consideration of a sales tax increase, a property tax increase or a combination of the two. The meeting will discuss all needs of the community, however the preservation community has made their immediate needs known. Mr. Cafarella encouraged participation and public comment at the meeting.

### **PRESERVE MANAGER'S REPORT**

Ms. Miller reported that several steward projects are on the upcoming calendar, and that the MSLT Steward Retreat is scheduled for February.

### **FUTURE EXECUTIVE SESSION**

MOTION WAS MADE BY COMMISSIONER MYERS TO HOLD AN EXECUTIVE SESSION FOR FEBRUARY 5, 2004, FOR THE PURPOSE OF DISCUSSION WITH REPRESENTATIVES OF THE PUBLIC BODY AND CONSULTATION WITH CITY ATTORNEY FOR LEGAL ADVICE TO CONSIDER ITS POSITION AND INSTRUCT ITS REPRESENTATIVES REGARDING NEGOTIATING FOR PURCHASE OR LEASE OF REAL PROPERTY FOR INCLUSION IN THE MCDOWELL SONORAN PRESERVE. ARS 38-431.03 (A) (3) AND (A) (7). THE MOTION WAS SECONDED BY COMMISSIONER KORTE AND PASSED UNANIMOUSLY, 8-0.

### **COMMISSIONER COMMENTS AND PUBLIC COMMENTS**

Commissioner Carla encouraged fellow commissioners to come to the January 14<sup>th</sup> Special City Council meeting.

### **AGENDA ITEMS FOR FUTURE MEETINGS**

Commissioner Carla asked for the State Land Reform Update, implications of any City Council action on 01/14/04, and the discussion of commercial permits in the Preserve, which may require a presentation.

Being duly moved and seconded, the regular meeting was adjourned at 6:15p.m.